

1882.  
NEW ZEALAND.

---

# COMPENSATION TO PROVINCIAL OFFICERS

(LEGAL OPINION AS TO).

*Presented to both Houses of the General Assembly by Command of His Excellency.*

The CHAIRMAN of the PUBLIC PETITIONS COMMITTEE to the UNDER-SECRETARY.

SIR,—

Public Petitions Committee, 6th June, 1882.

I have been directed by the Public Petitions Committee to request the Government to obtain the opinion of the Law Officers of the Crown on the following, viz. :—

The 13th section of "The Abolition of Provinces Act, 1875," provides for compensation being given to provincial officers if their services are dispensed with after abolition has taken place in consequence of such abolition.

1. What is the legal interpretation of this? Must an officer, to become entitled to compensation, have his services dispensed with immediately on abolition taking place, viz., on the 1st November, 1876, or is it discretionary on the part of the Government to grant it at any time after that date?

2. Could compensation be legally given under section 13 of "The Abolition of Provinces Act, 1875," after the Abolition of Provinces Act came into operation, to any officer whose services were dispensed with, without the office he held being abolished?

3. If a provincial officer continues to hold his office after the date of abolition, and the office he holds is abolished subsequently, has such officer any claim to compensation under the 13th section of "The Abolition of Provinces Act, 1875," for his services as a provincial officer?

I have, &c.,

T. KELLY,

The Under-Secretary.

Chairman, Public Petitions Committee.

*Extract from "The Abolition of Provinces Act, 1875."*

Section 13. If, after the date of the abolition hereunder of any province, the services of any officer in the employment of the colony, or of the Provincial Government of the abolished province, are dispensed with in consequence of the abolition of such province, he shall be paid out of the ordinary revenue of the colony such sum as he shall be entitled to under the terms of any engagement with the province entered into previous to the fifteenth day of September, one thousand eight hundred and seventy-five, and in default of any such agreement, then for each year of service one month's salary, according to the rate payable to him at the time of such abolition.

*Extract from "The Financial Arrangements Act, 1876."*

Section 34. Every officer and person employed in the service of the Government of any province shall, on the date of the abolition of such province, become and be an officer or person employed by the Government of the colony; but no such officer or person shall by virtue of this provision acquire any rights under "The Civil Service Act, 1866."

Section 35. The Governor may, if he deems it necessary, until the end of the next session of Parliament continue and carry on any service heretofore carried on by any Provincial Government, and may until such period retain in the public service any officer or servant theretofore employed in the service of any province, at the same rate of salary as that which he is receiving when this Act comes into force; and the Colonial Treasurer shall issue and pay the cost of any such service or any such salary accordingly.

Section 36. No person who may be a member of the Legislative Council or the House of Representatives, and whose services may be retained under the preceding section, shall, in consequence of such retention of services, be subject to any liability, penalty, or disqualification under "The Disqualification Act, 1870," or any Act repealing or amending the same: Provided that every such person shall resign such office, place, or employment on or before the thirty-first day of December next.

*Extract from "The Civil Service Acts Amendment Act, 1878."*

Section 8. No person who was a provincial officer on the coming into operation of "The Abolition of Provinces Act, 1875," and transferred to the Civil Service on the coming into operation of the Act last mentioned, shall be entitled to any retiring allowance under "The Civil Service Act, 1866," or any Acts repealed by such Act.